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DEC 27 2005BEFORE THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENTS AND TRADEMARK OFFICE

HARRY I. MOATZ,

Director, Office of
Enrollment and Discipline,

v.

Proceeding No. D02-14

→ GEORGE A. BODE,

Respondent.

FINAL DECISION UNDER 37 C.F.R. §
10.156

The Hon. Susan Biro ("ALF") issued an Initial Decision ("ID") finding that Respondent backdated three certificates of mailing; failed to communicate with clients, resulting in eight patent and trademark applications going abandoned; and failed to respond to Requirements for Information (RFIs) issued by the Office of Enrollment and Discipline (OED). Specifically, the ID found that by backdating certificates of mailing Respondent violated the following rules: USPTO Disciplinary Rule ("Rule") 10.23(b), by engaging in conduct involving misrepresentation; Rule 10.23(b)(6), by engaging in conduct that adversely reflects upon his fitness to practice; and Rule 10.23(c)(9), by knowingly misusing certificates of mailing. The ID found that through various failings involving his representation of several clients, Respondent violated the following rules: Rule 10.23(c)(8), by failing to inform clients of correspondence; Rule 10.77(c), by neglecting legal matters entrusted to him; and Rule 10.84(a)(2), by failing to carry out contracts for employment. Finally, the ID found that by failing to respond to RFIs, Respondent violated the following rules: Rule 10.23(b)(5), by engaging in conduct prejudicial to the administration of justice, Rule 10.23(b)(6), by engaging in conduct

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Instead, the ID treated it as "part and parcel of Respondent's general neglect of client matters." Id.

If Respondent had been charged with misappropriation of client funds and these charges had been sustained, a more severe penalty might well have been warranted. Given the posture of the case, however, the ID appropriately treated Respondent's failure to return the issue fee as part of his pattern of neglect. Viewed in this light, the apparent misappropriation does not fundamentally change the nature of the neglect. The ID expressly declined to find that Respondent had intentionally converted the funds. The amount at issue, although significant, is only of a fraction of the damage caused by Respondent's neglect.¹ Thus, Respondent's failure to return the issue fee does not itself warrant a more severe penalty under the neglect charges.

ORDER

Upon consideration of the entire record, and pursuant to 37 C.F.R. § 10.130(a), it is

ORDERED that thirty (30) days from the date this order is entered, George A. Bode, whose USPTO Registration Number is 30,028, shall be suspended from practice before the USPTO for seven years, with the final four years of the suspension stayed, and that Respondent Bode be placed on probation for the those four years. The terms of the probation are:

- (i) Respondent shall comply with all Disciplinary Rules applicable to patent attorneys practicing before the USPTO; and

¹ The ID found that the value of the abandoned patents and trademarks, had they been issued, was irrelevant. However, the \$605 issue fee is only a fraction of the total legal and USPTO fees paid but rendered futile as a result of Respondent's neglect.